

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

MALIBU MEDIA, LLC,

Plaintiff,

vs.

JOHN DOE,

Defendant.

CIVIL ACTION NO. 5-19-CV-00834-DAE

ORDER

Having fully considered Defendant John Doe's Motion for Sanctions, the Court finds that Plaintiff Malibu Media, Inc. spoliated evidence of electronic communications with its consultant IPP International, Inc., has refused to produce relevant communications with IPP, and made misrepresentations to the Court in the parties' joint advisory on Doe's motion to compel [Dkt. 42].

On that basis, the Court finds good cause to grant Doe's motion.

The Court hereby ORDERS that Malibu is sanctioned as follows under the Court's inherent authority and Federal Rule of Civil Procedure 37(b) and (e):

1. Malibu shall pay Doe the \$2,645.00 in attorney's fees Doe incurred in filing his motion for sanctions;
2. Malibu shall pay Doe the \$5,325.00 in attorney's fees Doe incurred in filing his motion to compel;
3. Malibu shall pay Doe \$10,000.00 in monetary sanctions, which the Court finds is necessary and appropriate to deter Malibu from similar misconduct;
4. If this case proceeds to trial, Malibu is prohibiting from introducing into evidence any information it obtained from IPP;
5. If this case proceeds to trial, the Court shall issue an adverse jury instruction on Doe's abuse of process counterclaims, instructing the jury that it may presume the spoliated IPP communications and evidence of the same were unfavorable to Malibu.

SO ORDERED.

SIGNED this _____ day of _____ 2021.
